

1 KAMALA D. HARRIS
Attorney General of California
2 GAIL M. HEPPELL
Supervising Deputy Attorney General
3 MIA PEREZ-CASTILLE
Deputy Attorney General
4 State Bar No. 203178
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 322-0762
Facsimile: (916) 327-2247
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **ACUPUNCTURE BOARD**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 1A-2009-112

13 **RENE ALBERTO TREJO**
340 Russell Ave.
Monterey Park, CA 91755

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

14 Acupuncturist License No. AC 10384

15 Respondent.
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17 **FINDINGS OF FACT**

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19 1. On or about October 29, 2010, Complainant Janelle Wedge, in her official capacity as
20 the Executive Officer of the Acupuncture Board, filed Accusation No. 1A-2009-11, against
21 RENE ALBERTO TREJO, AC (Respondent), before the Acupuncture Board (Board),
22 Department of Consumer Affairs,

23 2. On or about August 29, 2007, the Board issued Acupuncturist License Number
24 AC 10384 to Respondent. The Acupuncturist License expired on January 31, 2009, and has not
25 been renewed.

26 3. On or about October 29, 2010, Kristine Brothers, an employee of the Complainant
27 Agency, served by Certified Mail a copy of the Accusation No. 1A-2009-112, Statement to
28 Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5,

1 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is 340
2 Russell Avenue, Monterey Park, California 91755. A copy of the Accusation, the related
3 documents, and Declaration of Service are attached as Exhibit A, and are incorporated herein by
4 reference.

5 4. Service of the Accusation was effective as a matter of law under the provisions of
6 Government Code section 11505, subdivision (c).

7 5. On or about November 11, 2009, the aforementioned documents were returned by the
8 U.S. Postal Service marked "Unclaimed." A copy of the envelope returned by the post office is
9 attached as Exhibit B, and is incorporated herein by reference.

10 6. Business and Professions Code section 118 states, in pertinent part:

11 "(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a
12 board in the department, or its suspension, forfeiture, or cancellation by order of the board or by
13 order of a court of law, or its surrender without the written consent of the board, shall not, during
14 any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its
15 authority to institute or continue a disciplinary proceeding against the licensee upon any ground
16 provided by law or to enter an order suspending or revoking the license or otherwise taking
17 disciplinary action against the license on any such ground."

18 7. Government Code section 11506 states, in pertinent part:

19 "(c) The respondent shall be entitled to a hearing on the merits if the respondent files a
20 notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation
21 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of
22 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

23 8. Respondent failed to file a Notice of Defense within 15 days after service upon him
24 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation
25 No. 1A-2009-112.

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1 9. California Government Code section 11520 states, in pertinent part:

2 "(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the
3 agency may take action based upon the respondent's express admissions or upon other evidence
4 and affidavits may be used as evidence without any notice to respondent."

5 10. Pursuant to its authority under Government Code section 11520, the Board finds
6 Respondent is in default. The Board will take action without further hearing and, based on
7 Respondent's express admissions by way of default and the evidence before it contained in
8 exhibits A, B and C, finds that the allegations in Accusation No. 1A-2009-112 are true.

9 **DETERMINATION OF ISSUES**

10 1. Based on the foregoing findings of fact, Respondent RENE ALBERTO TREJO, AC
11 has subjected his Acupuncturist License No. AC 10384 to discipline.

12 2. A copy of the Accusation and the related documents and Declaration of Service are
13 attached.

14 3. The agency has jurisdiction to adjudicate this case by default.

15 4. The Board is authorized to revoke Respondent's Acupuncturist License based upon
16 the following violations alleged in the Accusation:

17 a. Violation of Business and Professions Code section 4955, subdivision (b) for
18 being convicted of a crime substantially related to the qualifications, functions, or
19 duties of an acupuncturist. On or about November 16, 2009, in case number XNW
20 LA062087 in the Superior Court of the State of California, County of Los Angeles in
21 the proceeding entitled, *The People of the State of California v. Rene Alberto Trejo*,
22 Respondent was convicted by a plea of nolo contendere to the offense of Transporting
23 or Selling a Controlled Substance, to wit, Hydrocodone, in violation of Health and
24 Safety Code, section 11352, subdivision (a), a felony.

25 b. Violation of Business and Professions Code section 4955, subdivision (i) for
26 unprofessional conduct.

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ORDER

IT IS SO ORDERED that Acupuncturist License No. AC 10384, heretofore issued to Respondent RENE ALBERTO TREJO, AC, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on **SEP 29 2011**

It is so ORDERED **AUG 30 2011**



FOR THE ACUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS